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Attorney for Respondent, LAWRENCE DERA K DUIGNAN

FILED

MAY 24 2012

STATE BAR COURT
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LOS ANGELES



**THE STATE BAR
OF THE STATE OF CALIFORNIA
HEARING DEPARTMENT - LOS ANGELES**

| | | | |
|--------------------------------------|---|--------------------------------------|------------|
| In The Matter of |) | Case Nos. | 11-O-11990 |
| |) | | 11-O-12116 |
| LAWRENCE DERA K DUIGNAN, |) | | 11-O-12118 |
| No. 110536 |) | | 11-O-13628 |
| |) | | 11-O-14393 |
| A Member of the State Bar (inactive) |) | RESPONSE TO AMENDED NOTICE OF | |
| |) | DISCIPLINARY CHARGES | |

RESPONSE TO NOTICE OF DISCIPLINARY CHARGES

JURISDICTION

1. Respondent admits the allegations stated in Paragraph 1.

COUNT ONE

2. Respondent denies the allegations stated in Paragraph 2.

3. As to Paragraphs 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12, Respondent admits Respondent was employed by Godwin to provide legal services related to their property. Respondent presently lacks information or belief or ability to respond and on that basis denies all other allegations contained in said paragraphs.

4. Respondent denies the allegations stated in Paragraph 13.

COUNT TWO

5. Respondent denies the allegations stated in Paragraph 14.

1 6. As to Paragraph 15, Respondent incorporates the responses to Count One by this
2 reference.

3 7. As to Paragraphs 16 and 17, Respondent presently lacks information or belief or
4 ability to respond and on that basis denies all allegations contained in said paragraphs.

5 **COUNT THREE**

6 8. Respondent denies the allegations stated in Paragraph 18..

7 9. As to Paragraph 19, Respondent incorporates the responses to Count One by this
8 reference.

9 10. As to Paragraphs 20 and 21, Respondent presently lacks information or belief or
10 ability to respond and on that basis denies all allegations contained in said paragraphs.

11 **COUNT FOUR**

12 11. Respondent denies the allegations stated in Paragraph 22.

13 12. As to Paragraph 23, Respondent presently lacks information or belief or
14 ability to respond and on that basis denies the allegation.

15 13. As to Paragraph 24, Respondent admits that he was employed to represent the
16 Jordans regarding a property dispute but presently lacks information or belief ability to respond
17 and on that basis denies all other allegations contained in said paragraphs.

18 14. As to Paragraphs 25, 26, 27, and 28, Respondent presently lacks information or
19 belief or ability to respond and on that basis denies the allegations.

20 15. Respondent denies the allegations stated in Paragraph 29.

21 **COUNT FIVE**

22 16. Respondent denies the allegations stated in Paragraph 30.

23 17. As to Paragraph 31, Respondent incorporates the responses to Count One by this
24 reference.

25 18. As to Paragraphs 32 and 33, Respondent presently lacks information or belief or
26 ability to respond and on that basis denies the allegations.

27 **COUNT SIX**

28 19. Respondent denies the allegations stated in Paragraph 34.

1 20. As to Paragraph 35, Respondent incorporates the responses to Count One by this
2 reference.

3 21. As to Paragraphs 36 and 37, Respondent presently lacks information or belief or
4 ability to respond and on that basis denies the allegations.

5 **COUNT SEVEN**

6 22. Respondent denies the allegations stated in Paragraph 38.

7 23. As to Paragraph 39, Respondent admits that he was employed to represent Karimi
8 regarding a property dispute but presently lacks information or belief or ability to respond and on
9 that basis denies all other allegations contained in said paragraphs.

10 24. As to Paragraphs 40, 41, 42, 43, 44, 45, and 46, Respondent presently lacks
11 information or belief or ability to respond and on that basis denies the allegations.

12 25. As to the conclusion of Paragraph 46 and Paragraphs 47 through 52, inclusive, the
13 Amended Notice of Disciplinary Charges served upon Respondent did not contain a page 8 and
14 Respondent therefor provisionally denies the allegations in said paragraphs (such as they may be)
15 and reserves the right to amend this Response if and when provided with the missing page.

16 **COUNT EIGHT**

17 26. Respondent denies the allegations stated in Paragraph 53.

18 27. As to Paragraph 54, Respondent incorporates the responses to Count One by this
19 reference.

20 28. As to Paragraph 55 Respondent presently lacks information or belief or
21 ability to respond and on that basis denies the allegation.

22 29. Respondent denies the allegations stated in Paragraph 56.

23 **COUNT NINE**

24 30. Respondent denies the allegations stated in Paragraph 57.

25 31. As to Paragraph 58, Respondent incorporates the responses to Count One by this
26 reference.

27 32. As to Paragraph 59 Respondent presently lacks information or belief or
28 ability to respond and on that basis denies the allegation.

33. Respondent denies the allegations stated in Paragraph 60.

COUNT TEN

34. Respondent denies the allegations stated in Paragraph 61.

35. As to Paragraphs 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, and 72, Respondent presently lacks information or belief or ability to respond and on that basis denies the allegation.

36. Respondent denies the allegations stated in Paragraph 73.

COUNT ELEVEN

37. Respondent denies the allegations stated in Paragraph 74.

38. Paragraph 75 is unintelligible and Respondent therefore denies this allegation.

39. As to Paragraph 76 Respondent presently lacks information or belief or ability to respond and on that basis denies the allegation.

40. Respondent denies the allegations stated in Paragraph 77.

COUNT TWELVE

41. Respondent denies the allegations stated in Paragraph 78.

42. As to Paragraph 79, Respondent incorporates the responses to Count Eleven by this reference.

43. As to Paragraphs 80 and 81, Respondent presently lacks information or belief or ability to respond and on that basis denies the allegations.

44. Respondent denies the allegations stated in Paragraph 82.

COUNT THIRTEEN

45. Respondent denies the allegations stated in Paragraph 83.

46. As to Paragraphs 84 and 85, Respondent admits that he was engaged by McPherson to provide legal services regarding his property. Respondent presently lacks information or belief or ability to respond and on that basis denies all other allegations contained in said paragraphs.

47. As to Paragraphs 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, and 97 Respondent presently lacks information or belief or ability to respond and on that basis denies the allegations.

48. Respondent denies the allegations stated in Paragraphs 98 and 99.

1 **COUNT FOURTEEN**

2 45. Respondent denies the allegations stated in Paragraph 100.

3 46. Paragraph 101 is unintelligible as it makes reference to a non-existent "Count
4 Seventeen." On that basis, Respondent denies the allegation.

5 47. Respondent denies the allegations in Paragraphs 102 and 103.

6 **FIRST AFFIRMATIVE DEFENSE**

7 Respondent is not responsible for the acts or omissions of others not under his control.

8 **SECOND AFFIRMATIVE DEFENSE**

9 Respondent is excused from the allegations stated above by reason of impossibility and/or
10 a high degree of impracticability under circumstances of duress not of his doing.

11 **THIRD AFFIRMATIVE DEFENSE**

12 Respondent's counsel is informed and believes and thereon alleges on behalf of
13 Respondent that by reason of mental infirmity Respondent is not capable of assisting his counsel
14 in the representation of the member in these proceedings. (Business & Professions Code sec.
15 6007(b)(1).)

16 **ACCORD AND SATISFACTION**

17 Respondent reached an agreement for the stay of these proceedings pending the further
18 treatment and recovery of Respondent.

19 **MOTION FOR ABATEMENT**

20 Respondent hereby moves this Court to abate these proceedings pending further treatment
21 and recovery of Respondent.

22 **MOTION FOR CONSOLIDATION**

23 There are now pending additional Complaints under investigation also involving
24 Respondent emotional collapse and the resulting closing of his law practice and voluntary
25 application for inactive status with the Bar. Said additional charges were incorporated into the
26 prior ENEC and the accord and satisfaction reached at that time. In the event any of the

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1 additional Complaints were to be formally charged, Respondent hereby moves the Court to
2 consolidate any subsequently-filed Charges with the charges into this one action.

3 **MOTION TO DE-PUBLISH ORIGINAL CHARGES**

4 The original Charges filed in this action on April 13, 2012 contained false allegations to
5 the effect that Respondent's wife, Gina Lacagnina, and Respondent's attorney, Anton C.
6 Gerschler, Esq. had failed to cooperate in the State Bar investigation. Upon ample proof to the
7 contrary, the Office of the Chief Trial Counsel of the State Bar, by and through Anthony J.
8 Garcia, Esq., Deputy Trial Counsel, agreed to file amended charges and did so on April 18, 2012.
9 The Amended Notice of Disciplinary Charges contains no such allegations as to Respondent's
10 wife or Respondent's attorney, yet the original Charges have been posted publicly on the State
11 Bar website, falsely and publicly impugning the conduct of Respondent's counsel and
12 Respondent's wife (also a member of the State Bar). On this basis, the Court is respectfully
13 requested to order the original erroneous charges to be de-published forthwith and replaced
14 instead by the April 18, 2012 Amended Notice of Disciplinary Charges.

15 **DECLARATION OF RESPONDENT'S COUNSEL**

16 I, Anton C. Gerschler, am a duly licensed California attorney and I represent Respondent
17 in this action. Mr. Duignan is currently under the care and treatment of mental health care
18 professionals and has been for many months now. He was previously determined to be disabled
19 from working and went voluntarily to inactive status with the Bar last September. He has not
20 been able to effectively assist me in his representation in this matter. Mr. Duignan is presently in
21 the process of an updated and comprehensive forensic mental evaluation.

22 I personally prepared this Response and I declare under penalty of perjury under the laws
23 of the State of California that all of the averments contained therein are true and correct and
24 made upon my personal knowledge except as to those matters stated upon information and belief,
25 and as to those matters, I believe them to be true.

26 Executed this 23rd day of May, 2012 at Encinitas, California.

27 
28 Anton C. Gerschler, Esq.

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| THE STATE BAR OF THE STATE OF CALIFORNIA HEARING DEPARTMENT -- LOS ANGELES | | FOR COURT USE ONLY |
| TITLE OF CASE (Abbreviated) In Re The Matter of Lawrence Derak Duignan | | |
| ATTORNEY(S) NAME AND ADDRESS Anton C. Gerschler, Esq., sbn #98682 | | TELEPHONE (760) 633-4060 |
| 914-A North Coast Highway 101 Encinitas, CA 92024 | | |
| ATTORNEY(S) FOR: Lawrence Derak Duignan | | CASE NUMBER ^S 11-O-11990, 11-O-12116, 11-O-12118, 11-O-13628, 11-O-14393 |

DECLARATION OF SERVICE
 [C.C.P. §§ 1013A and 2015.5]

I, the undersigned, declare that I am, and was at the time of service of the papers herein referred to, over the age of 18 years, and not a party to this action. My business address is 914-A N. Coast Highway 101, Encinitas, CA 92024. I served the following document(s):

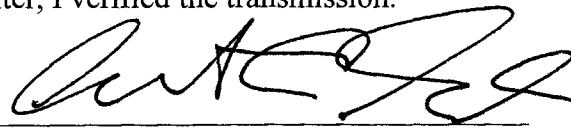
RESPONSE TO AMENDED NOTICE OF DISCIPLINARY CHARGES

on the parties in this action addressed as follows:

State Bar of California
Office of the Chief Trial Counsel
Anthony J. Garcia, Esq. Deputy Trial Counsel
1149 South Hill Street
Los Angeles, CA 90015-2299
Fax: (213) 765-1319

 X **BY MAIL:** I placed a true copy in a sealed envelope addressed as indicated above, on May 23, 2012. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on October 17, 2011, Encinitas, California.

 X **BY FACSIMILE:** On May 23, 2012, I personally sent to the addressee's telecopier number above a true copy of the above-described document(s). Thereafter, I verified the transmission.


 Anton C. Gerschler, Esq., Declarant

Date/Time: May.23. 2012 4:36PM

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3 Encinitas, CA 92024
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5 Attorney for Respondent, LAWRENCE DERAK DUGNAN

6
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8 THE STATE BAR
9 OF THE STATE OF CALIFORNIA
10 HEARING DEPARTMENT - LOS ANGELES
11

12 In The Matter of

13 LAWRENCE DERAK DUGNAN,
14 No. 110536

15 A Member of the State Bar (inactive)

Case Nos. 11-O-11990
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11-O-12118
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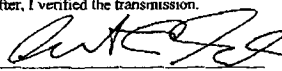
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